

Dear Senators BRACKETT, Johnson, Bock, and
Representatives PALMER, Shepherd, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
State Tax Commission - Motor Fuels Tax:

IDAPA 35.01.05 - Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No.
35-0105-1402).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/02/2014. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/30/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

FROM: Principal Legislative Research Analyst - Brooke Brouman

DATE: August 13, 2014

SUBJECT: State Tax Commission - Motor Fuels Tax

IDAPA 35.01.05 - Motor Fuels Tax Administrative Rules - Proposed Rule (Docket No. 35-0105-1402)

The State Tax Commission submits notice of proposed rulemaking relating to Motor Fuels Tax Administrative Rules. The proposed rule includes a rewrite of Rule 110, Calculation of Tax on Gaseous Fuels, which outlines conversion factors required by Section 63-2424(1), Idaho Code, to make it possible to assess the \$0.25/gallon gasoline tax on given volume of gaseous fuel based on the energy equivalent of a gallon of gasoline. The Commission states that Rule 110 is being changed to align the current conversion factors to national and industry standards.

The proposed rule also establishes new Rule 311 that outlines the procedures for International Fuel Tax Agreement ("IFTA") license bonds in accordance with Section 63-2442A, Idaho Code, and IFTA Articles of Agreement R340. This rule sets forth general requirements for posting bond and for the amount and type of bond required, allows the IFTA licensee to request a waiver from the bond requirement and references an appeal procedure for denied waiver requests. Rule 311 also provides that an applicant seeking to reinstate a revoked license may be required to post a bond, which is consistent with IFTA Articles of Agreement R430.200.

The Commission states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014 Idaho Administrative Bulletin, Vol. 14-6, pages 95 and 96.

The Commission's proposed rule is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

cc: State Tax Commission - Motor Fuels Tax
Sherry Briscoe

IDAPA 35 - STATE TAX COMMISSION
35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0105-1402
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Motor Fuels Tax Rule 110, Calculation of Tax on Gaseous Fuels, outlines conversion factors required by Section 63-2424(1), Idaho Code, to make it possible to assess the \$0.25/gallon gasoline tax on given volume of gaseous fuel based on the energy equivalent of a gallon of gasoline. The rule is being changed to align the current conversion factors to national and industry standards.

Motor Fuels Tax Rule 311, IFTA License Bond, outlines the procedure for International Fuel Tax Agreement (IFTA) license bonds according to Section 63-2442A(2), Idaho Code, and the IFTA Articles of Agreement R340, Bond Requirement. This new rule clarifies a timely filer and allows the IFTA licensee to request a waiver from the bond requirement. The rule also includes instructions for the bonding an IFTA licensee who has his license revoked then reapplies for an IFTA license.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014 Idaho Administrative Bulletin, [Vol. 14-6, pages 95 and 96](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams at (208)334-7855 or don.williams@tax.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 6th day of August, 2014.

Don Williams, Tax Policy Specialist
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7855
Don.williams@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0105-1402
(Only those Sections being amended are shown.)

110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).
Section 63-2424, Idaho Code.

01. In General. ~~In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated for any special fuel that is a gaseous fuel, the following equivalency formulas shall be used to calculate the amount of tax due:~~ The following applies to gaseous special fuels: (6-23-94)(____)

a. ~~One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid.~~ A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (6-23-94)(____)

b. ~~Four and one-fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid.~~ A gaseous special fuel may be sold at volumes or weights other than those listed in this section, but, must be converted to the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline. (6-23-94)(____)

02. Equivalents ~~BTU's. Special fuels tax on gaseous fuels will be computed based upon the equivalent BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate:~~ The following equivalents will be used when calculating amounts of gaseous special fuel sold and corresponding tax amounts for motor fuels tax reporting purposes. Gaseous special fuel distributors are required to report the volumes and tax as required on the fuel distributor form.

<i>Gasoline</i>	<i>127,000</i>	<i>BTU's per gallon</i>
<i>Propane</i>	<i>92,000</i>	<i>BTU's per gallon</i>
<i>Natural Gas</i>	<i>100,000</i>	<i>BTU's per gallon</i>

$$\frac{\text{Natural gas } 100,000 \text{ BTU}}{\text{Gasoline } 127,000 \text{ BTU}} \times \text{current tax rate} = \text{tax per therm}$$

$$\frac{\text{Propane } 92,000 \text{ BTU}}{\text{Gasoline } 127,000 \text{ BTU}} \times \text{current tax rate} = \text{tax per } 4 \frac{1}{4} \text{ pounds}$$

Motor Fuel	BTUs per liquid gallon	Tax per liquid gallon	Volume per Gasoline Gallon Equivalent (GGE)	Tax per GGE	Volume per Diesel Gallon Equivalent (DGE)	Tax per DGE
Gasoline	127,000	\$0.25	1 gallon	\$0.25	N/A	N/A
Propane	92,000	\$0.181	1.39 gallon	\$0.25	N/A	N/A
Compressed Natural gas (CNG)	N/A	N/A	126.67 cu. ft. or 5.66 lbs. @ 60° F	\$0.25	N/A	N/A

<u>Motor Fuel</u>	<u>BTUs per liquid gallon</u>	<u>Tax per liquid gallon</u>	<u>Volume per Gasoline Gallon Equivalent (GGE)</u>	<u>Tax per GGE</u>	<u>Volume per Diesel Gallon Equivalent (DGE)</u>	<u>Tax per DGE</u>
<u>Liquefied Natural Gas (LNG)</u>	<u>84,800</u>	<u>\$0.167</u>	<u>N/A</u>	<u>N/A</u>	<u>6.06 lbs.</u>	<u>\$0.273</u>
<u>Diesel</u>	<u>138,400</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>	<u>1 gallon</u>	<u>\$0.25</u>

(6-23-94) ()

(BREAK IN CONTINUITY OF SECTIONS)

311. IFTA LICENSE BOND (RULE 311).
Section 63-2442A, Idaho Code.

01. General. The State Tax Commission (Commission) may require an International Fuel Tax Agreement (IFTA) licensee to post a bond following the requirements of the IFTA Agreement in order to maintain his license. A bond may be required when he files returns or remits taxes, separately or in combination, after the due date at least three times within a three year period. When a bond is required, the licensee must post the bond within thirty (30) days from the date of the request. When no bond is posted within the thirty (30) days, the license is automatically revoked and it must be surrendered to the Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. ()

02. Reinstating Revoked Licenses. An applicant may be required to post a bond when he has previously had his IFTA license revoked or is related to a person who has previously had his IFTA license revoked. An applicant is related to a person who has previously had his IFTA license revoked when: ()

a. The applicant is owned at least twenty-five percent (25%) by a person or persons who has previously had his IFTA license revoked. ()

b. The applicant is operated or controlled by a person or persons who has previously had his IFTA license revoked. Operation and control includes, but is not limited to, an officer or director or other person authorized by the applicant to engage in the business or commercial activity of the applicant. ()

03. Amount and Type of Bond. The amount of the bond will be one thousand dollars (\$1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax-paid credits. Any type of bond allowed by the IFTA Agreement or these rules may be secured. The bond amount will be reviewed annually, but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount will be raised, lowered, or remain unchanged. ()

04. Bond Waiver Request. The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee must be a quarterly filer. The licensee must have submitted the quarterly returns and paid the tax due by the due date for one calendar year. An annual filer may not request a bond waiver. ()

05. Denial of Bond Waiver Request and Appeal of Denial. The Commission may deny a bond waiver request when it determines that waiving the bond requirement puts the financial interests of IFTA jurisdictions in jeopardy. The licensee must follow the appeal procedure in Section R1400, IFTA Articles of Agreement (revised July 2013) to appeal the denial of a bond waiver request. ()